## UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

UHS-CORONA, INC. d/b/a CORONA REGIONAL MEDICAL CENTER

and

Case 21-CA-110919

UNITED NURSES ASSOCIATIONS OF CALIFORNIA/UNION OF HEALTHCARE PROFESSIONALS, NUHHCE, AFSCME, AFL-CIO

## ORDER1

The Employer's petitions to revoke subpoena duces tecum B-710085 and subpoenas ad testificandum A-966747 and A-966748 are denied. The subpoenas seek information relevant to the matter under investigation and describe with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Employer has failed to establish any other legal basis for revoking the subpoenas. See generally *NLRB v. North Bay Plumbing, Inc.*, 102 F.3d 1005 (9th Cir. 1996); *NLRB v. Carolina Food Processors, Inc.*, 81 F.3d 507 (4th Cir. 1996).<sup>2</sup> Finally, objections made on the basis of

<sup>&</sup>lt;sup>1</sup> The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

<sup>&</sup>lt;sup>2</sup> The Employer's argument that the Acting General Counsel lacked the authority to conduct the investigation or issue the complaint is rejected. Contrary to the Employer, the Acting General Counsel was properly appointed under the Federal Vacancies Reform Act, 5 U.S.C. § 3345, which does not contain the limitation cited by the Employer, and not pursuant to Section 3(d) of the Act. See *Muffley v. Massey Energy Co.*, 547 F.Supp. 2d 536, 542–543 (S.D. W. Va. 2008), affd. 570 F.3d 534 (4th Cir. 2009) (upholding authorization of 10(j) injunction proceeding by Acting General Counsel designated pursuant to the Vacancies Act). See *The Ardit Company*, 360 NLRB No. 15 (2013).

a state code of civil procedure (here, California) are not cognizable in a Board proceeding.

Dated, Washington, D.C., January 9, 2014

MARK GASTON PEARCE, CHAIRMAN

HARRY I. JOHNSON, III, MEMBER

NANCY SCHIFFER, MEMBER